

ANDOVER CONSERVATION COMMISSION MEETING MINUTES
October 2, 2012

Town of Andover
36 Bartlett Street
2nd Floor Conference Room
7:45pm

Commission Members Present:

Chairman Donald Cooper, Vice Chairman Michael Walsh, Commissioner Fran Fink, Commissioner Alix Driscoll, Commissioner Jon Honea, Commissioner Floyd Greenwood and Commissioner Kevin Porter. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

194 Chandler Road

Present in Interest: Richard Kelly, Charles Edgerly, Terry McQuade, Barry McQuade, Sam Ameen, Shakil Kapadia, Sal Kapadia, Kader Kapadia, Sabiha Kapadia, Carol Minasian, Michael Boloran, Liz Fitzpatrick, Jerry Fitzpatrick, Don Ross, Cynthia Ross, Emileo Vakeri and K. Dafur

Staff Recommendation: Close the Public Hearing and Issue Order of Conditions.

Continued Public Hearing on the Request for Determination of Applicability filed to determine if the proposed construction of a 2000 square foot parking area to be built as a trail head to Conservation Land is subject to the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law.

Mr. Douglas presented this to the Commission. This was continued from August 21, 2012 for a site visit on September 5, 2012 at 8:05am and for abutters not requiring legal notification to be contacted. It was then continued from the September 5, 2012 meeting to draft the parking plans. The parking area proposed by the Commission will provide a welcoming parking area with the woods, requires less fill than other proposals submitted, meets the residents request for a full view parking area, is safer for people to exit and enter their vehicles and vehicles can exit onto Chandler Road to either the left or right safely.

Commissioner Greenwood provided some of the history of the site for the audience and Commissioners. There were a total of three site visits by the Commission. When the Commission purchased this property, part of the agreement was that the Commission would provide an informational kiosk and a parking area. The roadside parking proposal is not feasible as no fill is available to the Commission to construct the roadside parking area.

Mr. Douglas informed the Commission that the proposed parking area will be located outside the priority habitat. While the area is part of the Watershed Overlay Protection District, it is not adjacent to Fish Brook. The proposed open view parking area with a cleared area will be in full view of the road at all times.

Commissioner Fink asked if the slopes would be stabilized and/or rip rap installed. The area then will be a packed fill area with a minor grade.

Officer Charles Edgerly provided the safety report dated May 2012 to the Commission. Radar equipment was used to track the speed of the cars traveling on Chandler Road. The posted speed limit is 40 mph. The 85 percentile speed traveling inbound towards the center of Town was 36 mph and 38 mph outbound headed out of the center of Town. The distance needed for outbound traffic to come to a complete stop is 205 feet, with a site distance of 475 feet. The distance needed for inbound traffic to come to a complete stop is 200 feet with a site distance of 80 feet. Roadside brush work needs to be done to comply with the 200 feet site distance for cars entering and exiting the lot. Officer Edgerly spoke about the concerns of the abutters, namely, trash and illegal activities. Generally, there are a few calls when the new parking areas open, the police respond and make the cars leave the parking area. Within a short time period, the calls stop. Officer Edgerly agreed that the open concept of the parking area would be the easiest for the police to monitor the activity and the cars parked in the lot. He suggested parallel parking within the lot.

Attorney Richard Kelley submitted a letter written by Cheryl Maguire, as she could not attend the meeting. Attorney Kelley also met with the Land Committee to discuss the 30' x 60' parking area and the safety concerns regarding the parallel parking along Chandler Road. He submitted a new proposal for parallel parking for which Barry McQuade will provide the fill needed to construct a 15 feet wide and 140 feet long parking area to accommodate up to 7 cars.

Sal Kapati submitted a letter to the Commission expressing further concerns regarding the location of the parking area. He would like the parking area moved to the southeast to avoid the headlights shining in his family's home while exiting the parking area. He believes that the parking area will diminish the property values in the area.

Shakil Kapadis asked the Commission to consider how they would feel if the parking area was to be constructed across the street from their houses.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to close the public hearing and approve the 30' x 60' parking area as stated in the draft Order of Conditions; it was seconded by Commissioner Driscoll and approved with Chairman Cooper abstaining and Vice Chairman Walsh abstaining.

174 Jenkins Road

Present in Interest: John Ely

Staff Recommendation: Approve.

Continued Public Hearing on the Request for Determination of Applicability filed to determine if the proposed removal of approximately 40 pine trees is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. This was continued from September 18, 2012 for purposes of a site visit on September 21, 2012 at 8:15am. The site visit was completed. Commissioner Driscoll advised both the Commission and the Applicant that there may be a vernal pool on the property, and this would be further investigated in the Spring. Commissioner Fink asked that the wetland boundary be marked before any work begins; only white pines 12" or bigger be cut; work to be done by a crane as to not damage the remaining trees; work to be done when ground is frozen solid if vehicles are to be driven onto the property for the tree removal; and tree trunks standing 30 feet tall to remain for habitat.

The Applicant was opposed to leaving 30 foot tall tree trunks. Commissioner Porter agreed with the Applicant as this is a large wooded lot and there is no need to leave any snags since there are so many other trees to remain.

Chairman Cooper asked that the trees to be removed be designated , then Mr. Douglas to meet with the contractor to decide which trees are to be removed and the best way to take them down and remove them from the site. Mr. Douglas may add additional conditions as he deems necessary. The means and methods of the tree removal will be left to the contractor to confirm with Mr. Douglas.

Commissioner Fink asked that the wetland line be marked to assure there would be no cutting within the wetland and minimal damage to soil, plants and ground layer. Commissioner Fink again stated that she would like some snags to remain as well as the 25 foot buffer preserved.

Commissioner Porter stated that this is a small area of trees to be cut, and not all of the trunks are 12" in diameter or larger. He agreed that Mr. Douglas should meet with the Applicant to mark the trees to be cut.

Mr. Douglas agreed to mark the wetland and meet with the Applicant to determine which trees are to be cut.

The Applicant will be working with a forester to determine which trees are to be cut and removed.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to Approve with conditions discussed; it was seconded by Commissioner Driscoll and unanimously approved.

Behind 19 County Road

Present in Interest: Bill MacLeod, Evamarie Flower and Tom Amarault

Staff Recommendation: Continue.

Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act, and/or the Andover Wetlands Protection By-Law for the proposed construction of an 18 foot wide driveway and utilities within in existing private way.

Agent Cleary presented this to the Commission. This filing is under the WPA and By-law and is currently under review by DEP. There are extensive Riverfront and wetland boundaries currently under review. A waiver for soils map has been requested. A descriptive narrative of the soils on site has been provided by Mr. MacLeod.

Mr. MacLeod presented the project to the Commission. The proposed common driveway is currently a private way. The project is a low impact development with minimal pavement and turnaround to accommodate 2 houses and safety equipment. Water and sewer will be brought up the existing private way. Two deep sump catch basins will be constructed in the common driveway to help with the drainage of the new impervious areas. The runoff will flow towards the common driveway. The soil is very porous and sandy in this development. The project is outside the no-build and no-disturb zones.

Commissioner Fink asked Mr. MacLeod to clarify the lot numbers as the numbers are different on the plan submitted from the assessor's office plans. She also asked how many houses were to be built before a real roadway for a subdivision is required. Commissioner Fink did not feel there was enough information supplied, such as the entire build out for the lots, for the Commission to make a finding. Soils testing as well as curbing along the roadway to direct the water towards the catch basins should be provided. Commissioner Fink also questioned Lot #15 as it appeared from the plan that they would have to access the private way to get to County Road.

Mr. MacLeod reiterated that the Applicant was only filing for the roadway because the Building Inspector will not issue the building permit until the roadway is approved. Only two lots will use the private way. Any houses to be built will be outside the jurisdiction of the Conservation Commission. There is no curbing per the plan submitted. The project does not have to comply with the storm water regulations and no soils testing is required. The Applicant is however, providing infiltration that was not required. A Form A Plan has been discussed with the Planning Department and the lots reflect those lot numbers, however the plan cannot be submitted until the roadway is approved. The Homeowners Association will maintain the catch basins and roadway. The dwelling located on Lot #15 has rights to the common driveway for access. There is also a restricted use easement which allows the owner of lot #2 exclusive use of that area even though the property is owned by lot #9, all of which is outside the buffer zone.

Evamarie Flower, an abutter, stated that there may be a stream running through the area. Linda Cleary will be reviewing and flagging the wetland line. A site visit will be conducted after the flagging and review is completed.

Tom Amarault, an abutter, questioned the size of the house vs. the size of the lot. He was advised that that issue is out of the jurisdiction of the Conservation Commission.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to continue to October 16, 2012 at 8:15pm, it was seconded by Commissioner Porter and unanimously approved.

Intersection of Salem & Jenkins Road

Present in Interest: Brian Moore, Art Martineau, William Clark, Keith Saxon and Craig Liversidge

Staff Recommendation: Continue to October 16, 2012.

Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law, for the proposed extension of drainage piping and catch basins to capture runoff from adjacent properties to mitigate unsafe icing conditions in the travelled way during winter conditions.

Agent Cleary presented this to the Commission. This filing is under both the WPA and By-Law. DEP has issued a number, but the Application is under review. The proposed closed drainage system, which includes deep sum catch basins and manholes, will correct unsafe driving conditions in the winter. All of the work is within the existing roadway with no changes to contours or impervious surface. The project qualifies as a Limited Project under 310 CMR 10.53 (3) (f) – maintenance and improvement of existing roadways and inadequate drainage systems.

The Applicant is requesting waivers for:

1. Work within the 25 foot no-disturb zone, which is existing roadway;
2. DEP data forms; and
3. Waiver of trees 10" in caliper or greater.

Staff is not ruling on Flags 1A & 2A as one of the homeowners has removed the flagging from his lawn. Flag 4A is the closest to the work to be done. The Applicant needs to revise the plan to depict PVC pipes, flagging changes and stockpiling by another homeowner within the flagging to be removed. This homeowner was unaware of the violation and very cooperative in correcting the situation.

Brian Moore and Art Martineau presented the plan to the Commission as well as photos of the puddling that occurs on the roadway. This project will alleviate the puddling and runoff which freezes in the winter causing the unsafe road conditions. Deep sump catch basins will be installed to catch the runoff. This will also cut down on the amount of salt needed to keep the roadway safe for vehicles.

William Clark and Craig Liversidge both support the project and submitted their own photos of the puddling and runoff that occur now in the roadway. Both abutters agreed that this would be a benefit to the wetlands in the area due to the reduced amount of salt that would be running into the wetland after melting occurred.

Keith Saxon was also supports the project to make the roadway safer in the winter. Mr. Saxon asked if all of the catch basins were to be connected and if hoods would be installed to catch any oil from the roadway. Brian Moore stated that the hoods would not be installed as they are too difficult to maintain and the Town does not have the correct equipment to clean the catch basins once hoods are installed. Staff will check with Pam Merrill regarding the hoods.

Commissioner Fink stated that DEP requires the use of hoods on all catch basins. Commissioner Fink viewed the area during a rain storm and did not see puddling where the catch basins are to be located. She indicated that there is no curbing on Salem Street and there should be so direct the flow of water into the catch basin. The drainage on Jenkins Road is a long system with no catch basin on the east side of Jenkins Road. Commissioner Fink asked if an alternative would be to connect to the existing culvert with a flared section in the buffer zone before the wetland. The west side of Jenkins Road does not have a buffer zone as the wetlands are extremely close to the road.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to accept the waivers; it was seconded by Commissioner Honea and unanimously approved.

Commissioner Greenwood made a Motion to continue to October 16, 2012 for a revised plan, it was seconded by Commissioner Driscoll and unanimously approved.

12 Coventry Lane

Present in Interest: K. Dafur, Leah Basbanes, and Nancy Reddish

Staff Recommendation: Close the Public Hearing and Issue Order of Conditions

Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act for the proposed construction of an in-ground pool with associated grading and retaining wall with security fence.

Also opened was 12 Coventry Lane Item #7 on the Agenda. Vote to approve report and revised wetland boundaries by Basbanes Wetland Consulting pursuant to an Enforcement Order dated July 2, 2012.

Agent Cleary presented this to the Commission. The Commission first must address Item #7. The Enforcement Order was issued on July 2, 2012 and a restoration plan has been submitted. The site has begun to revegetate and the boundaries have been determined. Commissioner Fink asked if any shrubs or trees had been cleared. It does not appear any trees or shrubs were cleared as there are no visible stumps.

Commissioner Porter made a Motion to Approve the boundaries and restoration plan; it was seconded by Commissioner Driscoll and unanimously approved.

Leah Basbanes presented the plan to the Commission. The project consists of an in-ground pool with patio area, retaining wall, security fence and a drywell for the backwashing of the pool. The 25 foot no-disturb zone will be allowed to re-establish naturally and remain undisturbed with markers to be installed. There will be minor grading. A portion of the retaining wall is within the 50 foot setback.

Commissioner Fink stated that the retaining wall needed a structural engineer since the wall is 10 feet high by the shed and 8 feet high at the patio. She suggested the wall be made of versa lock and a building permit would be needed. Commissioner Fink also requested there be drainage in the wall as well as 5 feet between the wall and the pool. A design should be submitted by a structural engineer for approval (this is a Building issue). Commissioner Fink asked the Applicant if the existing shed was to remain on the property.

Nancy Reddish, the Applicant, stated that the shed is attached to the dwelling and would be remaining. She also informed the Commission that the retaining wall may not be 10 feet high.

Chairman Cooper advised that any revisions to the Plan submitted would need to come back before the Commission. Leah Basbanes confirmed that as long as the retaining wall remains with the footprint shown on the plan, there is no need to go back before the Commission.

Commissioner Fink stated her concerns with the proposed grading, retaining wall, shed and pool and asked the Applicant to continue the hearing to submit a revised plan. The Applicant declined to continue the hearing and asked the Commission to move forward with the plan before them.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to close the public hearing; it was seconded by Commissioner Greenwood and unanimously approved.

The draft Order of Conditions was reviewed. Commissioner Fink advised if the design of the retaining wall needs to be revised, then a new plan should be submitted prior to any work commencing.

Commissioner Honea made a Motion to Approve the plan and issue the Order of Conditions; it was seconded by Commissioner Porter and unanimously approved.

367 Lowell Street

Staff Recommendation: Withdraw without prejudice.

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed construction of a single family house and associated site work.

Mr. Douglas informed the Commission that the Applicant requested a withdrawal without prejudice.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to withdraw without prejudice; it was seconded by Commissioner Porter and unanimously approved.

ACTION ITEMS

12 Coventry Lane

See 12 Coventry Lane in Scheduled Items.

CONSENT AGENDA:

Faith Lutheran Church 360 South Main Street

Issuance of a Partial Certificate of Compliance.

24 Wethersfield Drive

Issuance of a Notification of Satisfactory Completion of Work Certificate.

Minutes

Approval of Minutes for September 5, 2012 and September 18, 2012.

Commissioner Honea made a Motion to Approve the Consent Agenda; it was seconded by Commissioner Greenwood and unanimously approved.

LATE ITEMS WHICH MAY REQUIRE A VOTE:

14 Evergreen Lane

Present in Interest: William Horsley and Don Borenstein

Discussion of Enforcement Order. An Enforcement Order with Cease & Desist was issued. The site walk was completed. Commissioner Greenwood presented historic aerial photos which show no structure and no structures like it around the lake. It was agreed that the top 2 courses of the wall would be removed. Vice Chairman Walsh asked for a time frame for the removal of the portion of the wall. Don Borenstein stated that the structure is a series of walls made up of old stone and block to act as a breakwater. Dr. Horsley has agreed to remove the top 2 courses of the wall. The underlying wall/structure was there when Dr. Horsley purchased the property in 1983.

Vice Chairman Walsh inquired if the Town had asked the previous owners to remove the older structure in the pond. The previous Building Inspector has condemned a boat house, but nothing on record for the structure. Chris Cronin was unable to determine the older wall from the newer wall portion.

Commissioner Driscoll felt that the entire structure should be removed since it is in the Town Water Supply. Commissioner Fink reminded the Applicant that any other work along the shoreline will require a permit.

Commissioner Porter made a Motion to remove the top two courses of the stone wall located in the reservoir and the large granite pieces to be removed from the beach, it was seconded by Commissioner Fink and approved by a vote of 5-2 with Commissioners Driscoll and Greenwood opposed.

The vote will satisfy the Enforcement Order. A letter will be issued to Don Borenstein confirming the top two courses are to be removed no later than November 30, 2012. The Water Department will provide the necessary procedure for removal of the pieces of wall.

600/800 Federal Street

Present in Interest: Susan Mohn and Chad Reynolds

Consideration of significance to raise the height of the golf ball intercepting nets requiring minor buffer zone excavation. Susan Mohn presented the plan to the Commission. The project consists of removing existing poles and replacing them with 80 foot long poles which will be buried 10 feet down without footings. Sedimentation controls will be placed to protect the wetlands and the soil will be used in replanting the poles or used on site. Discussion regarding who the permit should be issued to since it affects both properties. The insignificant change will be issued in both parties names and recorded at the Registry of Deeds on both properties.

Commissioner Honea made a Motion to find the change insignificant with the change being issued as discussed, it was seconded by Commissioner Driscoll and unanimously approved.

Rolling Green Open Space

Applicant proposing to place a Conservation Restriction on an additional 7.1 acres for the protection of the water supply and wildlife habitat. The Commission can submit its own Superseding Order of Conditions to Rachel Freed to see if DEP will adopt it as their own version. Commissioner Porter asked that we remove the reiteration and redundancy in the written order submitted and approved to streamline the order. He will email his requested changes to Mr. Douglas.

Commissioner Porter made a Motion to forward a Superseding Order of Conditions to DEP this week based on draft the Commission has reviewed, it was seconded by Commissioner Greenwood and unanimously approved.

Commissioner Fink informed the Commission that the Open Space was going before the ZBA on 10/13. Commissioner Driscoll suggested we lobby ZBA to provide access as part of the mitigation being provided.

Route 133 Committee Meeting

Commissioner Fink reminded the Commission the Committee Meeting is October 11th and asked if anyone could attend. Chairman Cooper agreed to send a letter to the Committee with any suggestions from the Commission.

The next meeting will be held at 7:45pm on October 16, 2012.

The meeting was adjourned at 10:30pm by Motion of Commissioner Porter, seconded by Commissioner Greenwood and was unanimously approved.

Respectfully submitted by,

Lynn Viselli,
Recording Secretary